

Memo

To: Linda Neri
From: Jim Burton *JB*
CC: Board of Supervisors
Date: 16 November 2005
Re: Draft Zoning Ordinance Language

On 20 October 2005 staff provided the Board with proposed revisions to the Zoning Ordinance to implement the Board of Supervisors' Proposal #1 for Western Loudoun (dated 21 July 2005). More recently, the Board received comments on staff's proposal from ZORC, REDC, and LCVA. Below, I have listed my primary concerns.

In addition, I have attached an itemized list of more detailed questions and comments regarding the staff's draft language. The two tables refer to the AR-1 and RR-1 language. The same questions and comments apply to the AR-2 and RR-2 language.

Primary Concerns

1). In his 4 November 2005 letter to Melinda Artman ZORC Chairman Bob Gordon lists four "significant differences between the ZORC approach and the staff draft language:" minimum cluster lot size, the use of cluster HOA common area for septic fields, the use of major floodplain for density computation, and the use lists and performance standards.

With regards to the first two items in Mr. Gordon's list I intend to follow the lead of my colleagues, Supervisors Clem and Waters.

At this time, however, I cannot support the ZORC density computation recommendation with regards to floodplains. Under the ZORC recommendation as I understand it, an 100-acre AR-1 parcel of which 90-acres were in major floodplain would still be allowed 10 lots. The site plan, then, would either have to place all 10

lots in the 10 acres not in floodplain or allow the construction of homes in major floodplain areas. While this is an extreme example, it does illustrate the problem with the ZORC approach.

The last Board did allow floodplain acreage in density calculations in exchange for additional environmental protections. Without similar additional environmental protections, I cannot support density credit for major floodplains as ZORC proposes.

2). My major concern with the use list is the number and type of outdoor special events that may be permitted in areas where residential growth has already occurred. We must have restrictions that protect the peace and tranquility of neighbors.

3). When the Board adopted Proposal #1 as its preferred alternative, it included language that the land comprising the open space requirement (70% in AR-1 and 85% in AR-2) be placed into an easement that would prevent future subdivision should the ordinances be changed by a future Board. In the cover memo staff state that the minimum Open Space requirements and maximum lot coverage limits should "accomplish the intent of open space and make for simpler administration rather than requiring eased open space." However, such accomplishment is only retained so long as a future Board does not change the zoning ordinances. I prefer the original concept of easements.

4). The draft language places a maximum size on cluster lots of 4 acres. Proposal #1 did not. Lot size restrictions do not necessarily encourage a true rural cluster, such as is naturally found along our rural roads, especially when combined with suburban-style setback requirements. A true rural cluster typically contains a variety of home types and sizes, usually placed close to the road and to one another. While a minimum lot size of 80,000 square feet is required for well and septic, design standards that required a variety of house sizes and price points, and that sited homes close together, up close to the road, with the remainder of the acreage to the rear of the lot, might better produce the outcome for which we are looking (not to mention some affordable housing).

5). One of the most divisive issues in the Rural Policy Area deals with road paving requests. Often these are driven by new residents who live in subdivisions with paved roads, but must traverse unpaved roads outside their subdivision. Should we add the following to those sections of the draft which Lot Access requirements: if the road leading to the development is unpaved, then should roads in the development also be unpaved? It is worth discussing. If an HOA exists, perhaps it could maintain the unpaved roads in the subdivision.

6). Can transmission lines be removed as a use from the Rural Policy Area? It is not shown as a use in the use list for RR-1 lots and common area. Therefore, it would seem we could remove it from the AR-1 and AR-2 parcels as well.

ATTACHMENT

AR-1

Page	Ordinance	Notes / Questions
8	Usage Table	Can we remove "Utility Transmission Lines" from the Usage List or does State Code require us to keep it?
11	2-103(A)(3)(a)	Why did lot width change from the 2003 ZO width requirements (see Table 2-103 on p. 10)
11	2-103(A)(4)(b)	Why was this added?
12	2-103(A)(5)(a-c)	Why was private lane option eliminated? (see Table 2-103 on p. 10)
13	2-103(B)(2)(e)	If zoning ordinances are changed in the future, will this be nullified?
12-13	2-103(B)(2)(a-j)	Where is 70% Open Space requirement?
14	2-103(B)(3)(g)	Why is the building height clause less restrictive here than in 2-103(A)(3)(e) (see p. 11)
14-15	2-103(B)(7)	The Disclosure Letter was to incorporate more than just notice of the limitations of wells and septic systems. Lori's proposal included a list of allowable ag uses on neighbouring properties. I would suggest some language about road paving (or the lack thereof).
15	2-103(C)(2)(a)	Where did 4-acre maximum come from? There were no maximum limits set in Option 1?
15	2-103(C)(2)(b)	Does this mean that 15-acre rural economy lot is counted as part of the common open space? Or that the subdivision may include common open space?
15	2-103(C)(2)(c)	Does this mean that in calculating allowable density you subtract out floodplain or that you leave it in? So for example, is an 100-acre lot of which 90% is floodplain allowed 1 lot or 10 lots?
16	2-103(C)(2)(d)	If zoning ordinances are changed in the future, will this be nullified?
16	2-103(C)(2)(h)	Why isn't the 15-acre lot set up as a Rural Economy lot as it is in the rezoning option?
16	2-103(C)(2)(a-i)	Where is easement language?
17	2-103(C)(4)(b)	Why the increase in maximum lot coverage to 15%, from 8% maximum in 2003 ZO (see p. 10, Table 2-103) and in the Base Density Division Option (see p. 11, 2-103(a)(3)(d))??
18	2-103(C)(5)	This designates land that is part of a lot nor road right-of-way as HOA common space. Proposal #1 designated the rump lot as one of the lots created. This is different.

A-442

Page	Ordinance	Notes / Questions
		With designating common open space to be any land not allocated to a lot, combined with the 4-acre maximum lot size in clusters, we lose an entire Rural Economy large lot and we get one more suburban house lot. To get a real rural cluster we should be using design standards rather than suburban setbacks and acreage requirements: all houses must be close together, up close to the road, with remainder of lot to rear, variety of house sizes and price points, etc.
18	2-103(C)(5)	In addition, if common open space does not count against the lot yield allotted and is not put into OSE, then if the ZO changed to allow greater density, an HOA could decide to subdivide the common open space not allocated to the waste system(s).
19	2-103(C)(5)(b)(xiv)	Again, can we eliminate transmission line use? If not, can we move it to a SPEX use below (as it is for standard AR-1 parcels on p. 8)?
19	2-103(C)(8)(a)	Why is the building height clause less restrictive here than in 2-103(A)(3)(e) (see p. 11)
20	2-103(C)(12)(a)	Can we add the following: If the road leading to the development is unpaved, then roads in the development should be unpaved.
22	2-104(E)(1)	Lori's proposal had suggested that HOA covenants must permit rural uses, even on small lots. This allows restrictions on common areas which is something of a loophole.
22	2-105	Which trumps? The Right to Farm Act or the HOA by-laws?

RR-1

Page	Ordinance	Notes / Questions
1	2-153(A)(1-3)	Why doesn't this breakdown appear in the Principal/Subordinate Subdivision Cluster Option?
1	2-153(D)	If zoning ordinances are changed in the future, will this be nullified?
2	2-153(A-I)	Where is easement language?
3	2-154(A)(5)(b)	Where did 4-acre maximum come from? There were no maximum limits set in Option 1?
3	2-154(A)(6)	Why did lot width change from the 2003 ZO width requirements (see AR-1 draft language, p. 10, Table 2-103)

Page	Ordinance	Notes / Questions
3	2-154(A)(8)	Why the increase in maximum lot coverage to 15%, from 8% maximum in 2003 ZO (see AR-1 draft language, p. 10, Table 2-103) and the Base Density Division Option (see AR-1 draft language, p. 11, 2-103(a)(3)(d))?
3-4	2-154(A)(9)(a-n)	Why are there use limits placed on cluster lots in Rezoning Option but not on AR-1 cluster lots?
4	2-154(B)(2)	Why did lot width change from the 2003 ZO width requirements (see AR-1 draft language, p. 10, Table 2-103)
4	2-154(B)(4)	Why the increase in maximum lot coverage to 15%, from 8% maximum in 2003 ZO (see AR-1 draft language, p. 10, Table 2-103) and the Base Density Division Option (see AR-1 draft language, p. 11, 2-103(a)(3)(d))?
4	2-154(B)(5)(a-aa)	Why are there use limits placed on rural economy lots in Rezoning Option but not on rural economy lots in the AR-1 cluster option?
4	2-154(B)(5)(a-aa)	Since the rezoning option does not list transmission lines as a permitted use for a rural economy lot, can we remove them as a permitted use everywhere else?
6	2-154(C)	<p>This designates land that is neither a Rural Residential Lot or a Rural Economy Lot as HOA common space. Proposal #1 designated the rump lot as one of the lots created. This is different.</p> <p>With designating common open space to be any land not allocated to a lot, combined with the 4-acre maximum lot size in clusters, we lose an entire Rural Economy large lot and we get one more suburban house lot. To get a real rural cluster we should be using design standards rather than suburban setbacks (see 2-155 on p. 7) and acreage requirements: all houses must be close together, up close to the road, with remainder of lot to rear, variety of house sizes and price points, etc.</p>
18	2-154(C)	In addition, if common open space does not count against the lot yield allotted and is not put into OSE, then if the ZO changed to allow greater density, an HOA could decide to subdivide the common open space not allocated to the waste system(s).
6-7	2-154(C)(a-m)	Since the rezoning option does not list transmission lines as a permitted use for common open space, can

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		we remove them as a permitted use everywhere else?
8	2-159	The Disclosure Letter was to incorporate more than just notice of the limitations of wells and septic systems. Lori's proposal included a list of allowable ag uses on neighbouring properties. I would suggest some language about road paving (or the lack thereof).
10	2-162(F)(1)	Lori's proposal had suggested that HOA covenants must permit rural uses, even on small lots. This allows restrictions on common areas which is something of a loophole.
10	2-163	Which trumps? The Right to Farm Act or the HOA by-laws?